

lands which have been used by the Department involving injuries to persons and/or animals, or damages to private property.

§ 644.533 Contamination discovered after return of land to owner, or sale.

When land has been previously declared clear of explosives or other dangerous material so as to be safe for all uses and disposed of, but is later found to have been contaminated to such an extent that, in his opinion, it is dangerous to the public, the DE will request the former using command to re-examine the land for the purpose of determining the extent to which the original Statement of Clearance should be revised and to determine the kind and cost of any further clearance work by the using command which would be required to place the property in the condition set forth in the original Statement of Clearance. If further clearance work is necessary and considered economically justified, the DE will request the using command to perform such work and furnish a new Statement of Clearance and record of the further clearance effected. If further clearance work is not considered economically justified, he will make a report thereof to DAEN-REM with his recommendations and pertinent supporting data. Recommendation for re-acquisition of contaminated lands will be limited to those which involve full restrictions of both surface and subsurface uses. Where subsurface use of lands only is to be restricted, it is preferable to make compensation to the owners through claim procedure, when and if instituted by the owner on his own initiative.

§ 644.534 Return of public domain land.

(a) *General.* The procedures described elsewhere in §§ 644.516 through 644.539 to carry out the continuing responsibility of the Department of the Army to assist and advise the land holder and protect the public from dangerous substances on or in the land after release are equally applicable to public domain lands. Air Force policy and procedures are generally comparable.

(b) *Congressional.* A provision has been added to several laws enacted by Congress that upon request of the Secretary of the Interior at the time of final termination of the reservation effected by the Act, the Department of the Army shall make safe for nonmilitary uses the land withdrawn and reserved, or such portions thereof as may be specified by the Secretary of the Interior, by neutralizing unexploded ammunition, bombs, artillery projectiles, or other explosive objects and chemical agents. The intent of the provision is explained by a statement of the Committee on Interior and Insular Affairs, House of Representatives, in Report No. 279, 87th Congress, 1st Session: The committee concluded that it would be appropriate to amend the bill to designate the Secretary of the Interior to act on behalf of the Federal Government in delineating the areas to be made safe for nonmilitary use when the lands are no longer required for defense purposes. "It is expected that the Secretary of the Interior will not require the Department of the Army to proceed with expensive cleanup work in areas where there would be no direct benefit. On the other hand, it is anticipated that when potential resources or use values are such as to make dedudding or decontamination advisable, the Secretary of the Interior will identify those resources and values for the Secretary of the Army. This will permit a full and complete justification in the event that a separate appropriation therefor is required." Report No. 279 also quoted the following policy statement by the then Bureau of the Budget:

... requirement for decontamination should be related to a standard not only of practicability, but also to one of economic feasibility that takes into account the desired future use and value of the land to be decontaminated.

(c) *Army.* The congressional policy outlined above does not change the existing Army policy. Its principal effect is to make it clear that the Secretary of the Interior has an equal interest with the Secretary of the Army in the final decision on whether it is practicable or feasible to clear lands for return to the public domain, and the extent of clearance. No difficulties in